IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 24311 of 2007(T)

PETITIONER:

S.SUDHARSANAN, S/O.SIVARAMAN,
RETD.SPECIAL OFFICER,/ ADLL.DIRECTOR,
STATE INSTITUTE FOR STAFF TRAINING, KAZHAKUTTOM,
THIRUVANANTHAPURAM, RESIDING AT 'DEEPAM',
T.C.17/871, CNRA 125, POOJAPPURA P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER.

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, LABOUR AND REHABILITATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **DIRECTOR OF EMPLOYMENT AND TRAINING, DIRECTORATE OF EMPLOYMENT AND TRAINING, THYCAUD, THIRUVANANTHAPURAM.**
3. **ACCOUNTS AND AUDITOR GENERAL, KERALA, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI. BEJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

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W.P.(C)NO.24311 OF 2007

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Dated this the 6th day of December 2007

JUDGMENT

The petitioner, who retired from service on superannuation on 31.5.2007, is aggrieved by the fact that the retirement benefits due to him though sanctioned as per Ext.P1 have not been disbursed to him so far. He is also aggrieved by Ext.P5 memo of charges issued to him proposing disciplinary action.

2. Insofar as the non-disbursal of the retirement benefits are concerned, I am of the view that mere pendency of the departmental proceedings need not stand in the way of the retirement benefits due and admissible to the petitioner being disbursed to him. The liability as regards the petitioner should be finalised, after due notice to him. An equivalent amount could be withheld or otherwise adjusted from the DCRG, in accordance with law. Insofar as pension is concerned, if disciplinary proceedings are still pending, then the department may grant provisional pension, but obviously, disciplinary proceedings cannot be kept pending interminably, thereby depriving the petitioner the pension or full pension that he is entitled to.

3. In the result, the writ petition is disposed of in the following terms:

i) On production of a copy of this judgment along with the

representation, the second respondent shall take appropriate steps to issue an LC/NLC to the petitioner. This shall be done, as early as possible, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

ii) On the NLC/LC being issued, the amount due to the petitioner by way of DCRG as sanctioned under Ext.P1 less any amount which may be fixed as liability shall be disbursed to him within one month thereafter.

iii) Provisional pension shall be granted to the petitioner in accordance with law. This shall be done within one month from the date of receipt of a copy of this judgment.

iv) The disciplinary proceedings as contemplated by Ext.P5 shall be completed without further delay, at any rate, within a period of one year from the date of receipt of a copy of this judgment.

v) If disciplinary proceedings are not completed within the aforementioned time fame, provisional pension payable to the petitioner shall be stepped up to the full pension with effect from the date on which the one year period expires.

vi) If the petitioner is aggrieved by the determination of any liability, then it will be open to him to challenge the same in appropriate proceedings.

V.GIRI, JUDGE

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